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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT TACOMA

12 KEITH E. BERRY,

13 Plaintiff,

14 v.

15 STATE OF WASHINGTON, *et al.*,

16 Defendants.

CASE NO. C10-5078BHS

ORDER DENYING PLAINTIFF'S
REQUEST FOR APPOINTMENT
OF COUNSEL

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18 This Civil Rights Action has been referred to United States Magistrate Judge J. Richard
19 Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and 636 (b)(1)(B), and Local Magistrate Judge's
20 Rule MJR3 and MJR4. The matter is before the court on plaintiff's motion for appointment of
21 counsel (Doc. 10).

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23 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
24 Although the court can request counsel to represent a party, 28 U.S.C. § 1915(e) (1), the court
25 may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th
26 Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616

1 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both
2 the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro*
3 *se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

4 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* and has not
5 made an argument regarding the likelihood of success on the merits. According, the motion
6 (Doc. 10) is **DENIED**. In addition, the court notes defendants have not filed any opposition to
7 the motion, but it appears plaintiff has not properly served a copy of the motion on all the parties
8 of record, i.e., plaintiff did not file a proof of service. Plaintiff should note that any future
9 motion or pleading filed with the court needs to be properly served on all the parties of record.
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11 DATED this 24th day of May, 2010.

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14 J. Richard Creatura
United States Magistrate Judge
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